THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 20010 of 2006

O r d e r:

The petitioner's father while working as Daftari in the respondent-State Bank of India, died in harness, on 01.12.1998. The petitioner states that when his father died, he was a minor, and he having attained majority on 05.05.2005, submitted an application seeking appointment on compassionate grounds under the Compassionate Appointments Scheme, but the respondent vide the proceedings dated 26.07.2005, impugned in this writ petition, rejected the same.

The learned counsel for the petitioner submitted that the petitioner at the time of the death of his father was a minor, and he being a minor, was not eligible for appointment, and therefore, he did not make application for providing him employment immediately after the death of his father. He submitted that Condition No.13 of the Check List provides that in the case of a minor, the offer of appointment shall be kept open till he becomes major, and his application has to be considered immediately thereafter. Having regard to Condition No.13 of the Check List, the learned counsel for the petitioner submits that the petitioner immediately after attaining majority on 05.05.2005 submitted application seeking appointment on compassionate grounds, but the action of the respondent in rejecting the same, by reason of the proceedings impugned in this writ petition, is illegal and arbitrary. He submitted that there can be no limitation for making applications for appointment on compassionate grounds, and in support of this argument, he placed reliance on the judgment of the apex Court in **Union Bank of India v. M.T. Latheesh**[1]. He thus submitted that the

impugned proceedings be set aside and the respondent be directed to provide appointment to the petitioner on compassionate grounds.

The respondent filed counter. The learned Standing Counsel for the respondent-State Bank of India reiterating the counter averments submitted that Condition No.13 of the Check List, which according to the petitioner, provides that in the case of a minor, the offer of appointment shall be kept open till he becomes major, is not applicable to the petitioner. She submitted that as per Clause 3(i) of the Scheme for Appointment on Compassionate Grounds, the application for appointment has to be made within one year from the date of death of the employee. She submitted that as per Clause 11(A)(a)(ii) of the Scheme for Appointment on Compassionate Grounds, appointment can be made with the prior sanction of the competent authority, if a minor attains majority beyond a period of four years and upto a maximum period of six years from the death of an employee. She submitted that though the petitioner at the time of the death of his father was a minor, but having regard to the fact that he attained majority after the expiry of the maximum period of six years, the application of the petitioner for appointment on compassionate grounds was rejected, and no exception can be taken thereto. In support of her contention that applications submitted for compassionate appointment after long lapse of time cannot be entertained, she placed reliance on the judgment of the apex Court in **National Institute of Technology v. Niraj Kumar Singh**[2]. She submitted that the mother of the petitioner is receiving family pension of Rs.1,623/- per month, apart from the amount of Rs.91,874/- received by the family towards the terminal benefits of the deceased.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-State Bank of India.

The main object for granting compassionate appointment to the family member of a deceased is to enable the family of the deceased to tide over the sudden crises that befalls on the death of the sole bread winner and grant of compassionate employment is not a matter of right. The apex Court in **Shri Umesh Kumar Nagpal v. State of Haryana and others**[3], has noted the objects of granting compassionate employment, and they are:

> **I.(i)** To enable the family to tide over the sudden crisis by the death of the sole bread winner;
> **(ii)** To relieve the family of the financial destitution and to help to get over the emergency. The object is not to give a member of such family a post.
> **II.** Mere death of an employee in harness does not entitle his family to such source of livelihood.
> **III.** The Government or public authority has to examine the financial condition of the family of the deceased, and only if it is satisfied, but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family.
> **IV.** The only ground, which can justify compassionate appointment, is the penurious financial condition of the family at the time of death of the employee. Offering employment irrespective of the financial condition of the family is legally impermissible.
> **V .** Consideration for compassionate employment is not a vested right to be exercised at any time in future.

The petitioner's father, admittedly died on 01.12.1998, and as on the date of the death of his father, the petitioner was a minor. The petitioner attained majority on 05.05.2005. As per Clause 3(i) of the Scheme for Appointment on Compassionate Grounds, application for appointment under the scheme, including application for keeping the offer open, should be received by the Bank at the earliest, and in any case not later than one year from the date of death of the employee. Admittedly, the petitioner in the instant case, submitted application for providing him appointment on compassionate grounds after he attained majority i.e. after more than six years after the death of his father, and since the petitioner did not make application within a period of one year as provided in Clause 3(i) of the Scheme of Appointment on Compassionate Grounds, certainly the same is time barred.

Be that as it may, though Clause 11(A)(a)(ii) of the Scheme for Appointment on Compassionate Grounds, vests power in the competent authority to approve proposals for relaxation of age, yet such power can be exercised by the competent authority only in the case a minor nominee attains majority beyond a period of four years and upto a maximum period of six years from the death of death of the employee, and inasmuch as the petitioner attained majority after expiry of the maximum period of six years from the death of death of his father, even the competent authority, cannot approve the proposal for appointment of any person on compassionate grounds, much less the petitioner. The petitioner, therefore, cannot be allowed to contend that the application for appointment on compassionate grounds must be kept open till he attained majority, and more so having regard to the judgment of the apex Court in **National Institute of Technology v. Niraj Kumar Singh**, wherein it held that compassionate appointment after long lapse of time after the death of the employee cannot be granted.

It is not as if the family of the deceased did not receive any monetary benefits, the mother of the petitioner, it is submitted by the respondent, is receiving an amount of Rs.1,623/- per month towards family pension, and that an amount of Rs.91,874/- was paid towards terminal benefits of the deceased, which the petitioner did not dispute. Merely because the petitioner's family is suffering from financial hardship because of health reasons of one or other member of the family, is no ground to direct the respondent to provide compassionate appointment, much against the provisions of the Scheme for Appointment on Compassionate Grounds. This apart, it is submitted by the learned Standing Counsel for the respondent that the Scheme for Appointment on Compassionate Grounds, has been replaced by new Scheme, which provides for payment of *ex-gratia* in

lumpsum. If such is the case, the petitioner is at liberty to make a representation to the respondent for payment of *ex-gratia* in lumpsum, and if any such representation is made, the respondent shall consider the same and pass appropriate orders in accordance with law.

With the observations as above, the writ petition is dismissed. No costs.

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N.V. RAMANA, J.

Dated: 20th July, 2007.
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[1] (2006) 7 SCC 350

[2] (2007) 2 SCC 481

[3] 1994 (4) SCC 138